

## **REMARKS**

**Claims in the Application.** Claims 20-26, 41, 43, 49, and 58-65 have been cancelled from this application. Claims 1-2, 4, 9-10, 17, 27, 30-40, 42, 44-48, and 50-57 have been amended. Claims 66-95 have been added to this application. Accordingly, Claims 1-19, 27-40, 42, 44-48, 50-57 and 66-95 are active in this application. Reconsideration is respectfully requested.

**Active Claims of Applicants.** Applicants have amended independent claims 1 and 17 to clearly recite the polymer to which the subunit of nucleic acid and ethylene containing moiety is bound. Independent Claim 30 recites the limitations of originally filed Claim 30 and Claim 41 and clarifies the polymeric framework portion of the polymer. It is noted that Claim 41 was not rejected in the Office Action over any of the cited references. New independent Claim 73 recites the limitations of originally filed Claims 30 and 55 and clarifies the polymeric framework portion of the polymer. It is noted that Claim 55 was not rejected in the Office Action over any of the cited references.

**Examiner's Rejection of the Claims Under 35 U.S.C. § 102(b).** The Examiner has rejected Claims 1-16, 19, 27, 30-39, 42, 53, 56 and 57 under 35 U.S.C. § 102(b) over U.S. Patent No. 4,904,582 ("*Tullis*"). This ground for rejection is traversed.

None of the species comprising the "framework" of Claim 1 are defined in *Tullis*. Neither does *Tullis* disclose any of the homopolymers or copolymers set forth in Claim 17. Further, independent Claims 30 and 73 are distinguishable over *Tullis* as acknowledged by the Examiner by failing to reject originally appearing Claims 41 and 55 over *Tullis*.

**Examiner's Rejection of the Claims Under 35 U.S.C. § 103(a).** The Examiner has further rejected Claims 1-12, 17, 20-25, 27, 28, 30-35, 40, 43-48, 50, 51, 53, 56 and 57 under 35 U.S.C.

§ 102(e) as being unpatentable over U.S. Patent No. 6,172,208 (“*Cook*”). Applicants respectfully traverse this rejection.

None of the species comprising the “framework” of Claim 1 are defined in *Cook*. Neither does *Cook* disclose any of the homopolymers or copolymers set forth in Claim 17. Further, independent Claims 30 and 73 are distinguishable over *Cook* as acknowledged by the Examiner by failing to reject originally appearing Claims 41 and 55 over *Cook*.

**Examiner’s Rejection of the Claims Under 35 U.S.C. § 102(e).** The Examiner has further rejected Claims 1-17, 20-23, 27, 28, 30-35, 40, 43-46, 50, 51, 53 and 54 under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 5,932,711 (“*Boles*”). Applicants respectfully traverse this rejection.

None of the species comprising the “framework” of Claim 1 are defined in *Boles*. Neither does *Boles* disclose any of the homopolymers or copolymers set forth in Claim 17. Further, independent Claims 30 and 73 are distinguishable over *Boles* as acknowledged by the Examiner by failing to reject originally appearing Claims 41 and 55 over *Boles*.

**Examiner’s Rejection of the Claims Under First Paragraph of 35 U.S.C. § 112.** The Examiner has rejected Claims 1-57 under the first paragraph of 35 U.S.C. § 112. This ground for rejection is likewise traversed. The amendment to the claims renders a discussion of this rejection unnecessary. Claim 1 has been amended to clearly recite “framework” to which the subunit of nucleic acid and ethylene-containing moiety is attached. The framework is clearly distinct from the claimed subunit. The relationship of ethylene subunits to the framework is further defined in Claim 17. That the first subunit is chemically distinct from the polymeric framework is further apparent in independent Claims 30 and 73.

Applicants' claims are not violative of the second paragraph of 35 USC § 112. The second paragraph requires that the specification conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which Applicants regard as their invention. The purpose of the second paragraph is to ensure that those skilled in the art can determine with precision the metes and bounds of the claims. According to the Federal Circuit, the issue of indefiniteness must be focused on whether those skilled in the art would understand the scope of the claim when the claim is read in light of the rest of the specification. *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1565, 1 USPQ2d 1081, 1088 (Fed. Cir. 1986). In the instant case, Applicants have stated that "substantially any polymeric material which is capable of presenting a plurality of functional groups is suitable for use". (Lines 5-8 of page 17.) Applicants have provided numerous species for the broad support of the polymeric framework in Claim 30 and the homopolymer or copolymer in Claim 73. See, for instance, lines 16-25 of page 8, lines 7-11 of page 12, lines 14-20 of page 12, line 29 of page 12 through line 20 of page 13, line 31 of page 13 to line 23 of page 14, line 28 of page 15 line 28 of page 18 of the originally filed specification. Further, note the statements throughout the specification that any polymeric material is acceptable. Note, for instance, lines 4-9 of page 17. In light of Applicants' disclosure, the claims are definite. See further, *Personalized Media Communications, L.L.C. v. United States Int'l Trade Comm'n*, 161 F.3d 696, 705, 48 USPQ 2d 1880, 1888 (Fed. Cir. 1998) (A claim is definite when one of ordinary skill in the art would understand the scope of the claims in light of the specification.)

**Examiner's Rejection of the Claims Under Second Paragraph of 35 U.S.C. § 112.** The Examiner has further rejected Claims 4, 9-12, 30-55 and 57 under the second paragraph of 35

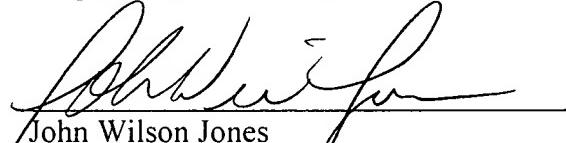
U.S.C. § 112. This ground for rejection is likewise traversed. It is believed that the amendments to the claims obviate the need for further discussion of this rejection.

**Examiner's Objection Regarding the Alleged Duplication of Claims.** The Examiner further states that claims 1 and 2 are duplicative in violation of MPEP 706.03(k). It is believed that the amendments to the claims obviates a further discussion of this issue.

**Examiner's Objection Regarding the Abstract.** Lastly, the Examiner has noted that the application does not contain an Abstract. Applicants have incorporated an Abstract with this Amendment.

**Conclusion.** The Examiner is respectfully requested to telephone the undersigned should he deem it prudent to expedite the prosecution of this application into a Notice of Allowance.

Respectfully submitted,



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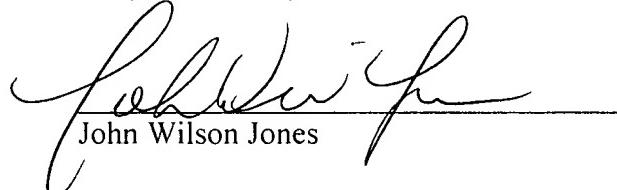
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**CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)**

I hereby certify this correspondence is being deposited on this 29<sup>th</sup> day of October, 2003, under 37 CFR 1.8(a), with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: October 29, 2003



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